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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,562	09/21/2001	Robert J. Smith	2103-010926	5710

28289 7590 07/25/2002

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EXAMINER

KAUFMAN, JOSEPH A

ART UNIT	PAPER NUMBER
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3754

DATE MAILED: 07/25/2002

4

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/960,562

Applicant(s)

SMITH, ROBERT J.

Examiner

Joseph A. Kaufman

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 120 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: numeral "14" first discussed on page 5, paragraph 31 and numeral "112" first discussed on page 7, paragraph 39. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 5-7, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Carr et al. '685.

Carr et al. shows a closure 12; container 100; opening at 106; lip 14; opening 44; horizontal seal 42; vertical seal 46; second horizontal seal 58; second vertical seal 40; dome 16; opening 32; and tamper band 52 that is the only band that indicates the initial opening of the closure.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carr et al.

Carr et al. has been discussed previously, but lacks the additional horizontal seal in the flow path. It would have been obvious to one of ordinary skill in the art to provide the second seal on the device of Carr et al. in order to better prevent leakage. Note, the additional seal is also an obvious multiple use of an already employed structure.

6. Claims 8 and 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carr et al. in view of Iseli.

Carr et al. has been discussed above, but lacks the attachment of the tip to the container. Iseli shows the direct attachment of the tip 14 to container neck 12. It would have been obvious to one of ordinary skill in the art to attach the tip directly to the container of Carr et al. as taught by Iseli in order to make for a more secure top structure that cannot be removed.

### ***Conclusion***

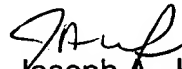
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dubach, Rapchak et al., Pradinas, Barriac, and Perne et al. show other dispensing tips with horizontal and/or vertical seals.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph A. Kaufman whose telephone number is (703)308-0266. The examiner can normally be reached on Monday-Friday (second Mondays off), 5:30AM-3PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yuen Henry can be reached on (703)308-1946. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3588 for regular communications and (703)308-7766 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0975.

  
Joseph A. Kaufman  
Primary Examiner  
Art Unit 3754

7/23/02

jak  
July 23, 2002